

Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Bill

Government Bill

Explanatory note

General policy statement

On 8 December 2014, Cabinet agreed to amend section 162 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **EEZ Act**).

Section 162 provides for existing petroleum operators, permitted under the Crown minerals regime, to continue their existing activities for the duration of their mining permits or privileges, as they were on the day before the EEZ Act came into force.

To continue operating once those mining permits or privileges expire, existing petroleum operators must have a marine consent under the EEZ Act. Currently, section 162 does not allow existing petroleum operators to continue their activities while a marine consent application is being considered by the Environmental Protection Authority and any objections or appeals are determined. Uncertainty about how long it may take to resolve any appeals creates an unnecessary risk around the transition of existing operators into the EEZ Act regime.

The purpose of this Bill is to allow existing petroleum operators who have applied for a marine consent to continue their operations until

the application is decided and any subsequent objections or appeals are determined.

The Bill will not change the requirement for existing petroleum operators to transition into the EEZ Act regime through the marine consenting process.

Departmental disclosure statement

The Ministry for the Environment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at [PPU to insert URL and link].

Clause by clause analysis

Clause 1 relates to the Title.

Clause 2 relates to commencement.

Clause 3 provides that the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **principal Act**) is amended by this Bill.

Clause 4 amends section 162 of the principal Act to enable existing petroleum mining operators to continue their operations until their applications for marine consents are determined. Section 162 currently provides that they can operate without a marine consent only during the remainder of the term of their operating permit or privilege as it was on the day before the principal Act came into force.

Section 162(5) is replaced by *new subsections (5) to (7)*.

New subsection (5) provides that, if an application for a marine consent for an activity to which section 162 applies is lodged with the Environmental Protection Agency (the **EPA**) before the end of the term of the operator's permit or privilege as it was on the day before the principal Act came into force, the activity may continue without a marine consent until—

- the application is decided by the EPA under section 62 of the principal Act and any appeals are determined; or

- the application is returned as incomplete by the EPA under section 41 of the principal Act and any objections and appeals are determined.

New subsection (6) provides that, if the application for a marine consent is returned by the EPA as incomplete, *new subsection (5)* applies to any new application that replaces the returned application. This provision follows section 161(6) of the principal Act, which relates to existing petroleum activities that become discretionary.

New subsection (7) replaces the current section 162(5) of the principal Act, which provides that the transitional arrangements in section 162 override the requirement in section 20 of the principal Act that such activities ordinarily require a marine consent. The new subsection is extended to apply to cases under *new subsection (5)* in addition to cases under subsection (4) (which provides that the activity may continue without a marine consent for the term of the permit or privilege).

Hon Dr Nick Smith

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Continental Shelf (Environmental
Effects) (Transitional Provisions)
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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Exclusive Economic Zone and Continental Shelf (Environmental Effects) (Transitional Provisions) Amendment Act **2015**.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

**Exclusive Economic Zone and Continental
Shelf (Environmental Effects) (Transitional
Provisions) Amendment Bill**

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3 Principal Act

This Act amends the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (the **principal Act**).

4 Section 162 amended (Existing petroleum mining activities involving structures or pipelines)

Replace section 162(5) with:

- “(5) Despite subsection (4), if an application for a marine consent for an activity to which this section applies is lodged with the Environmental Protection Authority before the end of the term of the permit or privilege as it was on the day before this Act came into force, the activity may continue without a marine consent until—
- “(a) the application is decided under section 62 and any appeals are determined; or
 - “(b) the application is returned as incomplete under section 41 and any objections and appeals are determined.
- “(6) If the application for a marine consent described in **subsection (5)(b)** was returned by the EPA under section 41, **subsection (5)** applies to any new application that replaces the returned application.
- “(7) Subsections (4) and **(5)** override section 20.”